

JUNCTION OIL COMPANY, INC.

IBLA 75-295

Decided June 25, 1975

Appeal from decision of Wyoming State Office, Bureau of Land Management, increasing rental for small tract W-0310786.

Set aside and remanded.

1. Appraisals -- Public Lands: Appraisals -- Small Tract Act: Generally
-- Small Tract Act: Appraisals

Where a decision fixes a small tract rental derived from an appraisal report which does not comport with Departmental standards, the decision will be set aside and the case remanded for a new appraisal to establish the fair rental value.

APPEARANCES: Timothy J. Kirven, Esq., Kirven and Hill, Buffalo, Wyoming, for appellant.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Junction Oil Company, Inc., has appealed to this Board from the decision of the Wyoming State Office, Bureau of Land Management, dated December 9, 1974, which revised the rental for small tract lease W-0310786 to \$2700 per annum commencing March 1, 1975, and required payment therefor at that rate, or a lump sum payment of \$11,250 for a five-year period.

The land in issue consists of 4.735 acres in sec. 30, T. 40 N., R. 78 W., 6th P.M., Wyoming. The rental had been \$1860 per annum. The increase in rental stemmed from an appraisal made as of September 15, 1973, and signed by the appraiser on January 25, 1974.

The appraisal covers two adjacent parcels, known as lots 6 and 7, at the junction of Highways 87 and 287 at Midwest, Wyoming. The lots contain respectively 5.0 acres and 4.79 acres and were valued at \$6000 per acre in the appraisal.

The annual rental was arrived at through the following computation:

4.735 acres x \$6,000/acre = \$28,410

\$28,410 x 9.5% = \$2,698.95 rounded to \$2,700 annual rental

5-year rental = \$2,698.95 x (1 + 3.276) = \$11,540.71 rounded to \$11,540.

[1] Our examination of the appraisal report impels the conclusion that it does not comport with Departmental standards. Cf. Daniel Hicken, A-27877 (March 5, 1959). See Harold Kyllonen, 16 IBLA 86, 81 I.D. 364 (1974); Glenn T. Norton, 16 IBLA 105 (1974). More specifically, insufficient consideration was given to the difference in location between the property in issue and the sales of land with which it was compared. The record indicates that the Midwest-Edgerton area, in which the land in issue is located, has experienced a 17 per centum drop in population between 1967 and 1970, during which period the population of Gillette, where the "comparable" lands are situated, increased 100%. Gillette now has a population within the city limits of 10,000 and the "greater Gillette area" a population of 12,000. Moreover, Gillette is experiencing a boom in oil field drilling and the opening of coal mines. Gillette is approximately 72 miles from Midwest. Gillette may be properly characterized as a boom town in contradistinction to the Midwest-Edgerton area, which is apparently declining.

The appraiser states at page 4 of the appraisal report as follows:

The reason for choosing Gillette as a comparable area was that most of the recent activity in the market was in and around Gillette, and Gillette seemed to be the center of the oil and gas activity that is generated near Midwest at least in oil supplies, even though this appraiser realizes that the manufacturing activity is concentrated in Casper.

That recital evinces a substantially more dynamic real estate market in the Gillette area than in the Midwest-Edgerton area.

We note that an earlier appraisal, which determined the value of the tract as of March 12, 1970, to be \$23,750, and on which the current rental is based, compared the subject lands with sales of comparable lands in Sheridan (2), Buffalo (3), Douglas (1), and Midwest (1). That appraisal, as does the current one, sought out lands located on or near interchanges on four-lane interstate highways at the outskirts of small towns with similar traffic volumes.

The current appraisal, however, relies solely on sales in one vicinity, that is, Gillette. Although the appraisal apparently takes into account the increased growth in the Gillette area, it also recognizes that there have been sales of comparable land in other areas of the State.

Thus the appraisal as so limited rests upon an unnecessarily narrow base.

The prime factor in valuing land is its location. Where the sales upon which an appraisal is based relate to tracts in a substantially dissimilar economic situation and location, the appraisal cannot be sustained.

Accordingly, the decision of December 9, 1974, should be set aside, the case remanded for a new appraisal of the fair rental of the lands in issue and the issuance of another decision embodying those findings of fair rental value.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision below is set aside and the case remanded for appropriate action consistent with this decision.

Frederick Fishman
Administrative Judge

We concur:

Joseph W. Goss
Administrative Judge

Martin Ritvo
Administrative Judge

